

MDR Tracking Number: M5-05-0207-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 09-14-04.

The IRO reviewed kinetics, office visits, manipulations, diathermy, therapeutic exercise, electric stimulation, massage therapy, muscle testing, DME, ROM measurements and mechanical traction rendered from 09-30-03 through 12-17-03 that were denied based upon "U".

The IRO determined that services for dates of service 09-12-03 through 10-09-03 **were** medically necessary. The IRO further determined that services from 10-10-03 through 12-17-03 **were not** medically necessary

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the **majority** of issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 01-04-05, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

Review of CPT code 99211-25-52 (8 DOS) 09-12-03, 09-16-03, 09-17-03, 09-22-03, 10-02-03, 11-05-03, 11-07-03 and 11-10-03 revealed that neither party submitted EOBs. Per Rule 133.307(e)(2)(B) the

requestor provided convincing evidence of carrier receipt of the providers request for EOBS with the exception of dates of service 09-12-03 and 10-02-03. The MAR per Rule 134.202(c)(1) is \$23.36 (\$18.69 X 125%). The requestor billed \$11.68 for each date of service in dispute. Reimbursement is recommended in the amount of **\$70.08** (\$11.68 X 6 DOS).

Review of CPT code 97024 (6 DOS) 09-12-03, 09-15-03, 09-16-03, 09-17-03, 09-22-03 and 09-29-03 revealed that neither party submitted EOBs. Per Rule 133.307(e)(2)(B) the requestor provided convincing evidence of carrier receipt of the providers request for EOBS. The MAR per Rule 134.202(c)(1) is \$5.54 (\$4.43 X 125%). The requestor billed \$5.53 for each date of service in dispute. Reimbursement is recommended in the amount of **\$33.18** (\$5.53 X 6 DOS).

Review of CPT code 97139-EU (6 DOS) 09-12-03, 09-15-03, 09-16-03, 09-17-03, 09-22-03 and 09-29-03 revealed that neither party submitted EOBs. Per Rule 133.307(e)(2)(B) the requestor provided convincing evidence of carrier receipt of the providers request for EOBS. The MAR per Rule 134.202(c)(1) is \$18.26 (\$14.61 X 125%). The requestor billed \$18.25 for each date of service in dispute. Reimbursement is recommended in the amount of **\$109.50** (\$18.25 X 6 DOS).

Review of CPT code 97124 (4 DOS) 09-12-03, 09-16-03, 09-17-03 and 09-22-03 revealed that neither party submitted EOBs. Per Rule 133.307(e)(2)(B) the requestor provided convincing evidence of carrier receipt of the providers request for EOBS. The MAR per Rule 134.202(c)(1) is \$25.70 (\$20.56 X 125%). The requestor billed \$25.69 for each date of service in dispute. Reimbursement is recommended in the amount of **\$102.76** (\$25.69 X 4 DOS).

Review of CPT code 98943 (10 DOS) 09-12-03, 09-16-03, 09-17-03, 09-22-03, 09-29-03, 10-02-03, 10-22-03, 11-05-03, 11-07-03 and 11-10-03 revealed that neither party submitted EOBs. Per Rule 133.307(e)(2)(B) the requestor provided convincing evidence of carrier receipt of the providers request for EOBS. Reimbursement is recommended in the amount of **\$279.70** (\$27.97 X 10 DOS).

Review of CPT code 97110 (4 DOS) 09-17-03, 09-29-03, 11-05-03 and 11-10-03 revealed that neither party submitted EOBs. Per Rule

133.307(e)(2)(B) the requestor provided convincing evidence of carrier receipt of the providers request for EOBS, however, recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings indicate overall deficiencies in the adequacy of the documentation of this code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one". Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division (MRD) has reviewed the matters in light of the Commission requirements for proper documentation. No reimbursement recommended.

Review of CPT code 99212-25-52 date of service 09-29-03 revealed that neither party submitted an EOB. Per Rule 133.307(e)(2)(B) the requestor provided convincing evidence of carrier receipt of the providers request for an EOB. The MAR per Rule 134.202(c)(1) is \$41.91 ($\$33.53 \times 125\%$). The requestor billed \$20.96. Reimbursement is recommended in the amount of **\$20.96**.

Review of CPT code 97150 dates of service 09-29-03 and 11-05-03 revealed that neither party submitted EOBs. Per Rule 133.307(e)(2)(B) the requestor provided convincing evidence of carrier receipt of the providers request for EOBs. The MAR per Rule 134.202(c)(1) is \$21.38 ($\$17.10 \times 125\%$). The requestor billed \$21.37. Reimbursement is recommended in the amount of **\$42.74** ($\21.37×2 DOS).

CPT code 99080-73 dates of service 10-03-03 and 10-14-03 denied with denial code "U" (unnecessary medical treatment). The TWCC-73 is a required report per Rule 129.5 and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter. Reimbursement is recommended in the amount of **\$30.00** ($\15.00×2 DOS).

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the Medicare program

reimbursement methodologies effective August 1, 2003 per Commission Rule 134.202(c), plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 09-12-03 through 11-10-03 in this dispute.

This Findings and Decision and Order are hereby issued this 8th day of February 2005.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

Enclosure: IRO Decision

MEDICAL REVIEW OF TEXAS
[IRO #5259]
3402 Vanshire Drive Austin, Texas 78738
Phone: 512-402-1400 FAX: 512-402-1012

NOTICE OF INDEPENDENT REVIEW DETERMINATION

REVISED 2/3/05

TWCC Case Number:	
MDR Tracking Number:	M5-05-0207-01
Name of Patient:	
Name of URA/Payer:	SCD Back and Joint Clinic
Name of Provider: (ER, Hospital, or Other Facility)	SCD Back and Joint Clinic
Name of Physician: (Treating or Requesting)	John R. Wyatt, DC

November 9, 2004

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined

by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Texas Workers Compensation Commission

CLINICAL HISTORY

Available information suggests that this patient reports multiple back and shoulder injuries occurring between ____ and _____. He appears to have presented initially to a Dr. Ruggerio who provided him with medications and returned him to light duty, but no specific reports from this are provided for review. The patient presents to a chiropractor, Dr. Wyatt, on or about 08/25/03, but is referred out again to another doctor, David Suchowiecky, MD, before any chiropractic evaluations or reports are made. Dr. Suchowiecky's report of 09/03/03 suggests that the patient is experiencing late effects of upper and lower back pain from lifting injury of ____ and additional medications are given. A chiropractic report is submitted 09/09/03 from Dr. Wyatt suggesting a diagnosis of lumbar sprain/strain, rotator cuff sprain/strain, thoracic sprain/strain and

myofascial pain from ____ injury (7 months previous). No prior or interim treatment is noted other than initial care by Dr. Ruggerio. The patient is given multiple active and passive physical therapy treatments and sent for an MRI evaluation of the right shoulder. MRI evaluations appear to be made on 09/09/03 for thoracic and lumbar areas and are found to be essentially normal. No shoulder MRI appears to be performed. Chiropractic report from 10/09/03 suggests that the patient is now being seen separately but concurrently for right shoulder injury of ____ and back injury of ____ (11-15 sessions of passive and active therapy for each). Dr. Wyatt also indicates that the patient is referred for neurological evaluation with a Dr. Randall Light and orthopedic evaluation with a Dr. Kenneth Berliner. No reports from these evaluations are provided for review. Strangely, Dr. Wyatt predicts an anticipated MMI and return to work date as **01/01/1900**. No specific explanation for this is provided for review.

REQUESTED SERVICE(S)

Determine medical necessity for kinetics, office visits, manipulations, diathermy, therapeutic exercise, electric stimulation, massage therapy, muscle testing, ROM measurements, mechanical traction, and DME for period in dispute 09/30/03 through 12/17/03.

DECISION

With the absence of previous medical reports and therapeutic intervention from initial provider, there does appear to be adequate support for medical necessity involving testing, DME and physical medicine applications from 09/12/03 to 10/09/03. However, medical necessity for these ongoing treatments and services (10/10/03 through 12/17/03) **are not supported** by available subsequent documentation provided and are therefore denied.

RATIONALE/BASIS FOR DECISION

The absence of requested shoulder MRI and reports from orthopedic and neurology consults appear questionable and without explanation. Earlier lumbar and thoracic MRI imaging appear to be completely unremarkable. In addition, ongoing therapeutic modalities of this nature suggest little potential for further restoration of function or resolution of symptoms at this late phase for uncomplicated sprain/strain conditions.

1. Philadelphia Panel Evidence-Based Clinical Practice Guidelines on Selected Rehabilitation Physical Therapy, Volume 81, Number 10, October 2001.
2. Hurwitz EL, et al. The effectiveness of physical modalities among patients with low back pain randomized to chiropractic care: Findings from the UCLA Low Back Pain Study. *J Manipulative Physiol Ther* 2002; 25(1):10-20.
3. Bigos S., et. al., AHCPR, Clinical Practice Guideline, Publication No. 95-0643, Public Health Service, December 1994.
4. Harris GR, Susman JL: "Managing musculoskeletal complaints with rehabilitation therapy" [*Journal of Family Practice*](#), Dec, 2002.
5. Morton JE. Manipulation in the treatment of acute low back pain. *J Man Manip Ther* 1999; 7(4):182-189.
6. Guidelines for Chiropractic Quality Assurance and Practice Parameters, Mercy Center Consensus Conference, Aspen Publishers, 1993.

The observations and impressions noted regarding this case are strictly the opinions of this evaluator. This evaluation has been conducted only on the basis of the medical/chiropractic documentation provided.

It is assumed that this data is true, correct, and is the most recent documentation available to the IRO at the time of request. If more information becomes available at a later date, an additional service/report or reconsideration may be requested. Such information may or may not change the opinions rendered in this review. This review and its findings are based solely on submitted materials.

No clinical assessment or physical examination has been made by this office or this physician advisor concerning the above-mentioned individual. These opinions rendered do not constitute per se a recommendation for specific claims or administrative functions to be made or enforced.